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OFFICE OF PETITIONS

In re Application of
Shinohara
Application No. 09/935,589
Patent No.: 7,116,367 B2
Filed: August 24, 2001

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:
: **DECISION REGARDING PTA**
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This decision is in response to applicants' "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)" filed on December 4, 2006 requesting that the USPTO adjust the patent term adjustment determination at the time of issuance of the application from a determination of 490 days to a determination of 577 days.

Patentees' application for Patent Term Adjustment is **GRANTED**. The Office will *adjust the PAIR calculation* at the time of the issuance of the patent to reflect a determination of **577** days. The Office will adjust the PTA calculation reflected in PAIR and also *sua sponte* issue a certificate of correction reflecting this decision.

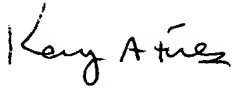
Patentees assert that they failed to engage in reasonable efforts to conclude prosecution after the mailing of the notice of allowance by a period of 173 days. Patentees do not dispute the reduction of PTA for a period 173 days pursuant to 37 CFR 1.704(c)(3) but dispute the additional 87 days under 37 CFR 1.704(b) because the periods of reduction completely overlap.

Patentees' arguments are persuasive. The Office agrees that the reduction periods are overlapping. The period of reduction for the violation of 37 CFR 1.74(c)(3) is the period beginning on February 18, 2006 and ending on August 9, 2006, a one hundred and seventy-three (173) day delay. See 37 CFR 1.704(c)(3). The reduction under 37 CFR 1.704(b) began on February 18, 2006 and ended on May 15, 2006. Since all of days are overlapping, the Office reduction should have only been 173 days and not (173 + 87). Accordingly, the proper determination at the time of the issuance of the patent is 754 days of USPTO delay and 177 days of applicant delay. Thus, the proper amount of PTA at the time of the issuance of the patent is 577 (754-177=577) days.

After the mailing of this decision, the Office will forward the file to the Certificate of Correction branch for a prompt issuance of a certificate of correction.

The applicants have submitted the \$200.00 fee pursuant to 37 CFR 1.18(e). No additional fees are necessary in deciding this petition.

Any questions concerning this letter should be directed to Kery Fries, Senior Legal Advisor, at 571-272-7757.

A handwritten signature in black ink, appearing to read "Kery A. Fries". The signature is written in a cursive, slightly slanted style.

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
For Patent Examination Policy

cc: Adjusted Pair Calculation
DRAFT certificate of correction

Day : Thursday

Date: 2/1/2007
Time: 11:18:32

PALM INTRANET

PTA Calculations for Application: 09/935589

Application Filing Date:	08/24/2001	PTO Delay (PTO):	754
Issue Date of Patent:	10/03/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	264
Post-Issue Petitions:	0	Total PTA (days):	577
PTO Delay Adjustment:	87		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
49	02/01/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	87		
45.5	09/13/2006	PTA 36 MONTHS			
45	10/03/2006	PATENT ISSUE DATE USED IN PTA CALCULATION	18		41
44	08/25/2006	EXPORT TO FINAL DATA CAPTURE			
43	08/24/2006	DISPATCH TO FDC			
42	08/23/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
41	05/15/2006	ISSUE FEE PAYMENT VERIFIED		87	31
40	08/09/2006	RECORD PETITION DECISION OF GRANTED TO ACCEPT DELAYED PAYMENT OF ISSUE FEE		173	31
39	05/15/2006	PETITION ENTERED			
37	05/15/2006	ISSUE FEE PAYMENT RECEIVED			
36	04/14/2006	MAIL ABANDONMENT FOR FAILURE TO PAY ISSUE FEE			
35	04/14/2006	ABANDONMENT FOR FAILURE TO PAY ISSUE FEE			
34	03/27/2006	FINISHED INITIAL DATA CAPTURE			
33	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
32	11/22/2005	EXPORT TO INITIAL DATA CAPTURE			
31	11/17/2005	MAIL NOTICE OF ALLOWANCE			
30	11/14/2005	ISSUE REVISION COMPLETED			
29	11/14/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
28	11/14/2005	NOTICE OF ALLOWABILITY			
27	09/12/2005	DATE FORWARDED TO EXAMINER			
26	09/02/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			

25	09/12/2005	DATE FORWARDED TO EXAMINER			
24	09/02/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)			
23	09/12/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
22	09/02/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
21	06/02/2005	MAIL FINAL REJECTION (PTOL - 326)	50		16
20	05/31/2005	FINAL REJECTION			
19	03/16/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
18	12/13/2004	NEW OR ADDITIONAL DRAWING FILED			
17	03/16/2005	DATE FORWARDED TO EXAMINER			
16	12/13/2004	RESPONSE AFTER NON-FINAL ACTION		4	13
15	12/13/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	11/13/2001	REFERENCE CAPTURE ON IDS			
13	09/09/2004	MAIL NON-FINAL REJECTION	686		-1
12	09/07/2004	NON-FINAL REJECTION			
11	08/10/2004	CASE DOCKETED TO EXAMINER IN GAU			
10	11/13/2001	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
9	11/13/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	06/14/2002	CASE DOCKETED TO EXAMINER IN GAU			
7	11/26/2001	APPLICATION DISPATCHED FROM OIPE			
6	11/20/2001	APPLICATION IS NOW COMPLETE			
5	09/27/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	09/24/2001	CORRESPONDENCE ADDRESS CHANGE			
2	08/31/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/24/2001	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

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